



March 28, 2002

**VIA ELECTRONIC FILING**

William F. Caton  
Acting Secretary  
Federal Communications Commission  
445 Twelfth Street, SW- TW - A235  
Washington, DC 20554

**Re: In the Matter of Joint Application by BellSouth Corporation,  
BellSouth Telecommunications, Inc., and BellSouth Long Distance,  
Inc. for Provision of In-Region, InterLATA Services in Georgia and  
Louisiana; CC Docket No. 02-35.**

Dear Mr. Caton:

Attached are the Associations for Local Telecommunications Services' (ALTS')  
Reply Comments in the above captioned proceeding.

Sincerely,

/s/

Teresa K. Gaugler



March 28, 2002

**VIA ELECTRONIC FILING**

Ms. Dorothy Attwood  
Chief, Common Carrier Bureau  
Federal Communications Commission  
445 Twelfth Street, SW  
Washington, DC 20554

**Re: In the Matter of Joint Application by BellSouth Corporation,  
BellSouth Telecommunications, Inc., and BellSouth Long Distance,  
Inc. for Provision of In-Region, InterLATA Services in Georgia and  
Louisiana; CC Docket No. 02-35.**

Dear Ms. Attwood:

Please accept this letter as the Association For Local Telecommunications Services' (ALTS') Reply Comments in the above-captioned proceeding.

BellSouth filed its initial Joint Application for in-region interLATA authority in Georgia and Louisiana in October 2001 ("Initial Joint Application"). Many CLECs filed comments in that proceeding, raising major concerns with BellSouth's 271 compliance, including UNE pricing and OSS. Based on these comments, the Commission was inclined to deny the Initial Joint Application, leading BellSouth to withdraw it on December 20, 2001. Six weeks later, BellSouth re-filed its Joint Application, claiming to have corrected all the concerns formerly raised by carriers. ALTS is very skeptical as to whether such a thing is even possible in such a short period of time; however, the comments recently filed in this proceeding clearly indicate that BellSouth has *not* corrected many of the egregious problems faced by competitive carriers. ALTS urges the Commission to affirmatively deny BellSouth's current Joint Application, as it has not met the checklist requirements of Section 271.

It is outrageous for BellSouth to suggest that it corrected the shortcomings of its Initial Joint Application in just a few months' time. ALTS agrees with Covad that the RBOCs have been treating the 271 application process like a game.<sup>1</sup> BellSouth, like Verizon and SBC in the past, filed its Initial Joint Application with the lowest threshold

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<sup>1</sup> Covad Comments at 2.

of compliance it believed might be necessary to gain Section 271 approval. When it became clear that the Commission was not going to sign off on it, BellSouth withdrew the application and soon after re-filed without giving much, if any, thought to adequately addressing CLEC concerns. The Commission should not allow these games to continue. It should outright deny this Joint Application (and any other that fails to satisfy Section 271), but the staff should not give forewarning to BellSouth that it intends to deny the application in order for the RBOC to withdraw the application before a formal denial is issued.

The Commission should affirmatively adopt an order denying each non-compliant application so that there is a clear record of the applicant's shortcomings, to which all interested parties could then refer as they develop their responses to later re-filed applications. This would create an entirely open process rather than the behind-the-scene dealings that take place now. There is an appearance that the RBOC applying for in-region, interLATA authority is privy to information or insights otherwise not available to the public or other interested parties. Based on this information and exclusive insight, the RBOC is able to make minor modifications to its application such that it can receive the bare minimum grade to satisfy the 271 obligations to the satisfaction of the FCC. The fact that no other party is privy to these insights means that every other party has to guess what to say in response to the formalistic revisions to the RBOC's application. At a minimum, insights as to the FCC's primary concerns with the original application should be made publicly available so that parties may prepare future comments accordingly.

The wide array of problems raised in CLEC comments in this proceeding strongly indicates that BellSouth has not significantly improved its performance in the intervening months between its Initial Joint Application and the filing of the current Joint Application. BellSouth's UNE rates are uncertain as it seeks to increase those rates before the Georgia PSC, and the Commission should ensure that the rates it considers in this proceeding are those that BellSouth will actually be charging its wholesale customers and that they comply with TELRIC principles.<sup>2</sup> CLECs also indicate that they still encounter problems with BellSouth's OSS, including manual ordering,<sup>3</sup> incorrect customer service record (CSR) information,<sup>4</sup> inaccurate databases,<sup>5</sup> incomplete firm order confirmations (FOCs),<sup>6</sup> improper rejections of service orders,<sup>7</sup> missed appointments for loop installations,<sup>8</sup> improper provisioning,<sup>9</sup> excessive loop outages,<sup>10</sup> inaccurate wholesale billing,<sup>11</sup> inadequate conversion of special access circuits to UNEs,<sup>12</sup> poor quality of maintenance and repair services,<sup>13</sup> cumbersome and confusing procedures and

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<sup>2</sup> Allegiance Comments at 2; Covad Comments at § 9.

<sup>3</sup> Covad Comments at 2; Mpower Comments at 7.

<sup>4</sup> Allegiance Comments at 5-6.

<sup>5</sup> Mpower Comments at 8.

<sup>6</sup> KMC Telecom Comments at 3.

<sup>7</sup> KMC Telecom Comments at 4; Mpower Comments at 11.

<sup>8</sup> KMC Telecom Comments at 6-9.

<sup>9</sup> Covad Comments at § 3.

<sup>10</sup> KMC Telecom Comments at 10-12.

<sup>11</sup> Mpower Comments at 12-14.

<sup>12</sup> Mpower Comments at 14; US LEC and XO Comments at 4..

<sup>13</sup> Mpower Comments at 16; US LEC and XO Comments at 6.

uncooperative personnel,<sup>14</sup> and deficiencies in the Change Management Process.<sup>15</sup> While any one of these problems may not warrant denial of BellSouth's Joint Application, the confluence of all of these experienced by myriad CLECs highlights BellSouth's noncompliance with Section 271.

Several commenters also point out ongoing improper marketing practices by BellSouth. For example, BellSouth technicians have disparaged CLEC services and provided incorrect information to customers when those customers choose to switch their services to a competitor.<sup>16</sup> Additionally, BellSouth has engaged in illegal win-back efforts using proprietary CLEC data as well as offering free services to CLEC customers when that offer was not included in BellSouth's tariff.<sup>17</sup> The Commission should not reward BellSouth for this anticompetitive behavior and its poor wholesale performance by granting its Joint Application.

Two CLECs do appear to support BellSouth's Joint Application; however, BTI's and NewSouth's comments are guarded support at best, indicating BellSouth's "steady improvement" and "significant strides" while emphasizing that problems do still exist.<sup>18</sup> Neither of these carriers' comments gives the impression that BellSouth overwhelmingly satisfies the 271 checklist requirements, even for those carriers. Moreover, it is not sufficient that BellSouth may have improved its performance when dealing with a few token CLECs because it must show that it provides nondiscriminatory access to *all* carriers. Thus, while it may be easy for BellSouth to pacify an individual CLEC or two, it must fully satisfy Section 271 requirements to obtain support of the CLEC industry as a whole. And that is not the case here.

As discussed in ALTS' reply comments to BellSouth's Initial Joint Application and again in Network Telephone Corporation's comments in this proceeding, widespread inaccurate data in BellSouth's reporting databases indicates that all of the data in those databases—and submitted in this proceeding—is suspect.<sup>19</sup> The Commission cannot make a determination of BellSouth's performance based on such faulty data. However, even if BellSouth's data is correct, it highlights that BellSouth has consistently discriminated against at least one CLEC, Network Telephone, in each category of OSS provisioning.<sup>20</sup> ALTS agrees with Network Telephone that BellSouth has not devoted adequate resources to provide necessary services to *all* CLECs.<sup>21</sup> Therefore, while BellSouth may have given special attention to some CLECs, including NewSouth and BTI, it has not done so for all CLECs, and the vast majority of competitors continue to experience time consuming and costly delays in dealing with BellSouth.

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<sup>14</sup> Covad Comments at § 7.

<sup>15</sup> *Id.* at § 5.

<sup>16</sup> Allegiance Comments at 7; KMC Comments at 16; Mpower Comments at 10.

<sup>17</sup> KMC Comments at 16.

<sup>18</sup> BTI Comments at 1-2; NewSouth Comments at 1.

<sup>19</sup> ALTS Reply Comments in CC Docket 01-277 (filed November 13, 2001) at 4-5; Network Telephone Comments at 2-3.

<sup>20</sup> Network Telephone Comments at 4-6.

<sup>21</sup> *Id.* at 7.

BTI suggests that ongoing monitoring will ensure BellSouth continues to improve its performance.<sup>22</sup> However, history has shown that grant of 271 authority does not encourage RBOCs to continue to improve or even to maintain the level of service reached prior to grant of authority. Therefore, while ALTS agrees that it is essential to have anti-backsliding measures in place before granting BellSouth 271 authority,<sup>23</sup> those measures are not sufficient to justify granting such authority when BellSouth's performance is not first up to par at the time of approval.

Finally, it is not in the public interest to grant this application and allow BellSouth to provide interLATA services in Georgia and Louisiana. As noted by Sprint, much of the data relied upon by BellSouth to show the extent of competitive entry is suspect due to the current state of the industry.<sup>24</sup> By granting BellSouth interLATA authority in these states, the Commission would allow BellSouth to continue its anticompetitive behavior and lock up more customers with its long distance offerings. In the end, Georgia and Louisiana customers would be denied the opportunity to choose viable competitive alternatives.

### Conclusion

The Commission should outright deny this Joint Application without providing BellSouth with advanced notice of its intentions. While BellSouth may have pacified a few token CLECs with special treatment, it has not satisfied Section 271 by irreversibly opening its markets to competition by all competitors. ALTS has been clear in its previous Section 271 filings that enforcement action post Section 271 approval is never as effective as adhering to the "irreversibly open to competition" standard when reviewing an application. The Commission must take stronger enforcement measures, but most importantly, it must more closely scrutinize all RBOC Section 271 applications. BellSouth should not be rewarded with long distance authority where there continue to be widespread problems with compliance both in Georgia and Louisiana.

Sincerely,

/s/ Teresa K. Gaugler

Teresa K. Gaugler  
Jonathan Askin

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<sup>22</sup> BTI Comments at 3.

<sup>23</sup> *Id.* at 2.

<sup>24</sup> Sprint Comments at 3-6.